

(PRE-FILED)

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By: **Chairman, Judicial Proceedings Committee (By Request -  
Departmental - Public Safety and Correctional Services)**

Requested: November 3, 2003

Introduced and read first time: January 14, 2004

Assigned to: Judicial Proceedings

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A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Parole and Probation Hearings - Evidence - Preliminary Breath**  
3 **Tests**

4 FOR the purpose of permitting the result of a preliminary breath test to be used as  
5 evidence by the State and by a defendant in a violation of probation proceeding  
6 or a parole revocation hearing; and generally relating to preliminary breath test  
7 results.

8 BY repealing and reenacting, without amendments,  
9 Article - Transportation  
10 Section 16-205.2(c)  
11 Annotated Code of Maryland  
12 (2002 Replacement Volume and 2003 Supplement)

13 BY adding to  
14 Article - Transportation  
15 Section 16-205.2(e)  
16 Annotated Code of Maryland  
17 (2002 Replacement Volume and 2003 Supplement)

18 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
19 MARYLAND, That the Laws of Maryland read as follows:

20 **Article - Transportation**

21 16-205.2.

22 (c) The results of the preliminary breath test shall be used as a guide for the  
23 police officer in deciding whether an arrest should be made and may not be used as  
24 evidence by the State in any court action. The results of the preliminary breath test  
25 may be used as evidence by a defendant in a court action. The taking of or refusal to

- 1 submit to a preliminary breath test is not admissible in evidence in any court action.  
2 Any evidence pertaining to a preliminary breath test may not be used in a civil action.

3 (E) NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (C) OF THIS  
4 SECTION, THE RESULT OF A PRELIMINARY BREATH TEST MAY BE USED AS EVIDENCE  
5 BY THE STATE OR A DEFENDANT IN:

6 (1) A VIOLATION OF PROBATION PROCEEDING CONDUCTED BY A COURT;  
7 OR

8 (2) A PAROLE REVOCATION HEARING CONDUCTED BY THE PAROLE  
9 COMMISSION.

10 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
11 October 1, 2004.